

CHAPTER 31 - LIQUOR

LIQUOR CONTROL ORDINANCE

The following Liquor Control Ordinance for the territory of McLean County, Illinois, outside the corporate limits of any incorporated city, town or village, be and hereby is adopted.

ARTICLE I
DEFINITIONS

31.01 The following definitions shall apply to the words when used within this ordinance.

Alcoholic Beverages - Spirits, wine, beer, ale, whiskey, gin, brandy, rum or any distilled or fermented liquid containing more than one-half of one percent alcohol by volume, but for human consumption.

Beer - A beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like.

Completely Enclosed Building - A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior or party walls, pierced only by windows and normal entrance or exit doors. **(Added 6-17-87)**

Hours - Shall mean either Central Standard Time or Central Daylight Time, whichever is in effect in McLean County.

Premises - The completely enclosed permanent building wherein the sale and consumption of alcoholic beverages by Class A, B, C, and D licenses occurs. **(Added 6-17-86, Amended 6-16-87)**

Outdoor Garden - an approved and licensed outdoor area immediately adjacent to the premises where alcoholic beverages are sold and consumed and where such premises holds a current and valid Class A, B or D liquor license. **(Added 8-16-05)**

Retail Sale - Sale for use or consumption and not for resale.

Sale - Transfer, exchange or barter for consideration, including any sale made by any person including principal, proprietor, agent, servant or employee, and includes, but is not limited to, all of the following acts when done for consideration: **(Amended 12-21-93)**

- (A) the selling of alcoholic beverages;
- (B) the giving away of alcoholic beverages;
- (C) the dispensing of alcoholic beverages;
- (D) the providing of mix, ice, water, containers, cups, glasses or soft drinks for the purpose of mixing drinks containing alcoholic beverages for consumption on the premises;
- (E) the pouring of alcoholic beverages;
- (F) the providing of "set up establishments";
- (G) the storage of any alcoholic beverage.

Set Up Establishment - means any public or private place that:

- (A) Does not hold a liquor license pursuant to this Ordinance but which sells, gives away, provides, pours, stores, or otherwise dispenses alcoholic beverages and/or mix, ice, water, containers, cups, glasses, and soft drinks for the purpose of consumption of alcoholic beverages on the premises, or **(Added 12-21-93)**
- (B) Holds a liquor license and after the hours which it is permitted to be in operation, engages in any of the activities in the immediately preceding subsection. **(Added 12-21-93)**

Sell - The act of making a sale, receiving an order for exposing to the public for the purpose of selling or keeping with the intent to sell.

Wine - Any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as defined above.

31.02 RESERVED.

ARTICLE 2 LIQUOR CONTROL COMMISSIONER AND COMMISSION

31.03 LIQUOR CONTROL COMMISSIONER

The Chairman of the County Board of McLean County, Illinois shall be the Liquor Control Commissioner and shall head the Liquor Control Commission. The Chairman shall appoint three members of the McLean County Board to serve as deputy commissioners as provided in Section 5.15-4 of the Rules of the McLean County Board. After the appointments are made, the Chairman of the County Board. After the appointments are made, the Chairman of the County Board shall designate the Chief Deputy Liquor Control Commissioner who shall have the powers and duties of the Commissioner in his absence. **(Amended 2-17-87)**

31.04 RESERVED. **(Amended 2-17-87)**

31.05 ACTION AT CONVENED MEETING. The Commission by majority vote at a convened meeting may issue, revoke or suspend any retail dealer's license in accordance with the provisions of this Ordinance or on the basis of provisions of any law of the State of Illinois pertaining to the sale of alcoholic beverage except the issuance of Class E licenses shall be a function of the Liquor Control Commission.

31.06 TIE VOTE. In case of a tie vote of the Commission members as the convened meeting, the Chairman of said Commission shall vote to break the tie.

31.07 RECORDS AND NOTIFICATION. The Commission shall keep, or cause to be kept, a complete record of all licenses issued, revoked or suspended by said Commission. Within 48 hours after such issuance, revocation or suspension, the Commission shall notify the County Treasurer, State's Attorney and Sheriff thereof.

31.08 - 31.10 RESERVED.

ARTICLE 3 LICENSES

31.11 LICENSE REQUIRED. It shall be unlawful to sell or offer for retail sale in the territory in the County outside of the limits of any incorporated city, town or village, and alcoholic beverage without having a Retailer's License, or in violation of the terms of such license.

31.11-1 SET UP ESTABLISHMENTS. Set up establishments as defined in this Ordinance are prohibited in McLean County outside the limits of any incorporated city, town or village, and it shall be unlawful for any person acting as a principal, proprietor,

agent, servant or employee to operate a set up establishment. **(Added 12-21-93)**

31.12 LICENSE PRIVILEGES. A Retailer's License shall allow the Licensee to sell or offer for sale alcoholic beverages, at retail only and not for resale in any form, on the premises in accordance with the classification of said license as hereinafter provided. **(Amended 6-17-86)**

31.13 PEDDLING PROHIBITED. It shall be unlawful for any person, partnership or corporation to peddle alcoholic liquor in the County outside of the corporate limits of any city, town or village.

31.14 LOCATION CHANGE. A location may be changed only upon written permit to make such changes issued by the Commission.

31.15 LOCATION RESTRICTIONS. No license shall be issued for sale at retail of any alcoholic beverage at a location prohibited by 235 ILCS 5/6-11. **(Amended 8-16-05)**

31.16 NATURE OF LICENSE AS PROPERTY. Any license granted shall not be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered for the subject matter in lien. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that the executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic beverages, may continue the business of the sale of alcoholic beverages under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy until the expiration of such license but no longer than six months after the death, insolvency or bankruptcy of such licensee. a refund shall be made of the portion of the license fees paid for any period in which the licensee shall be prevented from operation under such license in accordance with the provisions of this section.

31.17 LICENSE EXPIRATION. Class A, B, C, ~~and~~ D and G licenses shall expire at midnight on the 30th day of June, next following its issuance. Class E licenses shall be issued for one-day only, such day to be specified on the face of the license. **(Amended 8-16-05)**

31.18 PERSONS INELIGIBLE TO BE LICENSED. No license under the terms of this Ordinance shall be issued to:

- (A) A person who is not of good character and reputation in the community in which he resides.
- (B) A person whose license to sell alcoholic beverages in this County has been revoked for cause.
- (C) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
- (D) A partnership, unless all of the members of such partnership shall be qualified to obtain a license, under the provisions of (A) through (C) of this Section.
- (E) A corporation, if any officer, manager or director thereof, or any holder or owner of 51 percent of the stock or other securities of the corporation, would not be eligible to receive a license hereunder the provisions of (A) through (G) of this Section for any reason other than citizenship and residence with this County.
- (F) A person, partnership or corporation whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications as required of the licensee.
- (G) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, or who has forfeited his bond to appear in Court to answer charges for any such violation.
- (H) A person, partnership or corporation who does not own the premises for which a license is sought or who does not have a lease thereon for the premises for which the license is to be issued, except for Class E licenses.
- (I) Any person, partnership or corporation if the applicant, or any partner, director or officer is a law enforcing public official or member of a County Board.

(J) Any person, partnership, or corporation not eligible for a State retail liquor dealer's license.

31.19 LICENSE CLASSIFICATIONS. Licenses shall be divided into five classes as follows:

- (A) Class A License: Class A licenses shall authorize the retail sale of alcoholic beverages as defined in this Ordinance on the premises specified for consumption on such premises as well as other retail sales of such alcoholic beverages.
- (B) Class B License: Class B licenses shall authorize the retail sale of beer or wine as defined in this Ordinance on the premises specified for consumption on such premises as well as other retail sales of such beer or wine.
- (C) Class C License: Class C licenses shall authorize the sale of alcoholic beverages as defined in this Ordinance on the premises specified in packages or original containers un-opened, at retail, not to be consumed on such premises where sold.
- (D) Class D License: Class D licenses shall authorize the retail sale of alcoholic beverages as defined in this Ordinance for extended hours on the premises specified for consumption on such premises as well as other retail sales of such alcoholic beverages.
- (E) Class E License: Class E licenses shall authorize the retail sale of beer or wine as defined in this Ordinance on the site specified for consumption on such site in connection with a one-day special event held by a non-profit organization. Such licenses shall be issued only to said non-profit organization.

(Amended 6-17-86)

(F) RESERVED. **(Added 8-16-05)**

(G) Class G License: Class G licenses shall authorize the retail sale of alcoholic beverages in outdoor gardens as defined in this Ordinance for consumption in the outdoor gardens. Class G licenses may only be issued to holders of Class A, B or D licenses. **(Added 8-16-05)**

31.20 LICENSE FEES. The annual fees for licenses shall be:

Class A License - \$1,000.00

Class B License - \$ 400.00

Class C License - \$ 650.00

Class D License - \$1,200.00

Class E License - \$ 25.00 per event which excludes Clerk fee. **(Amended 11-17-92)**

Class G License - \$ 500.00 in addition to fee for Class A, B or D license **(Added 8-16-05)**

Such fees shall be payable at the time the application is filed and shall be returned to the applicant by the Commissioner in the event that the application is denied.

Fees for licenses issued for a term of less than a full year shall be reduced in proportion to the full calendar months which have expired in the license year.

In the event that a change to a higher classification of license is granted for a term of less than a full year, an additional fee shall be required in the amount of the difference in annual fee between the applicable licenses reduced in proportion to the full calendar months which have expired in the license year.

31.21 FILING OF APPLICATION. New applications or renewal applications for such license shall be made in writing by the applicant to the County Clerk, McLean County, Illinois, accompanied by the required Clerk's fee and the applicable filing fee in cash, check or money order; the County Clerk shall then refer applications for Class A, B, C ~~and D,~~ and G licenses to the Commission and applications for Class E licenses to the Liquor Control Commissioner ~~ad~~ and shall transfer the license fee in the same manner as all license fees received in his office. The County Clerk's fee for accepting the license application shall be \$5 per license, and shall be submitted in cash, check or money order with the application. Renewal applications shall be submitted to the County Clerk no later than 30 days prior to the expiration of the license to be renewed.

31.22 APPLICATION CONTENTS - INSURANCE - CLASS A, B, C OR D. Applications for a Class A, B, C, or D license under the terms of this Ordinance shall be signed by the applicant, if an individual; or partners, if a partnership or by a duly authorized agent of the corporation, if a corporation; and all signatures thereon shall be verified. The application shall contain the following:

- (A) The statement whether applicant has made application for a liquor license on the same or other premises which has been either denied, suspended or revoked and the date and place of such revocation, suspension or denial with reasons thereof.
- (B) The date and place of any conviction of crime of the applicant or, if a corporation, the date and place of any conviction of crime or any agent or shareholder of said corporation owning a majority of the stock.
- (C) A statement that the applicant is completely familiar with the terms and provisions of this Ordinance; and also with the McLean County Food Service Establishment Ordinance adopted June 17, 1980, as amended, or the McLean County Retail Food Store Ordinance adopted April 15, 1980, as amended, whichever is applicable.
- (D) A statement that the applicant is not disqualified from receiving a liquor license by reason of any provisions of the laws of the State of Illinois.
- (E) Certification of insurance issued by an insurance carrier authorized to do business with the State of Illinois insuring the business under the Dram Shop laws of the State of Illinois, said certificate reflecting Dram Shop insurance coverage in amounts of not less than \$20,000 per person and \$50,000 per occurrence. Such insurance coverage shall be for the full term of the license for which application is made.
- (F) The names of the persons or person who will manage the business of be the agent of the applicant in supervising the business operation.
- (G) The names of any public office held by the applicant; and partner, if a partnership; officers, directors and majority stockholders, if a corporation.

31.23 APPLICATION CONTENTS - CLASS G. Applications for a Class G license shall be filed with the application for a Class A, B or D license under the terms of this Ordinance and shall contain the following:

- (A) A statement that the applicant is making application for a Class A, B or D license in addition to a Class G license.
- (B) A statement whether applicant has made application for a liquor license on the same or other outdoor gardens which has been either denied, suspended or revoked and the date and place of such revocation, suspension or denial with reasons thereof.
- (C) A statement that the applicant is completely familiar with the terms and provisions of Chapter 26 of the McLean County Revised Code entitled "Food Service", as amended, and Chapter 40 of the McLean County Revised Code entitled "Zoning Ordinance", as amended.
- (D) A statement that the applicant understands and agrees that the holder of a Class G license shall be the same person or entity that is the holder of a Class A, B or D license for premises immediately adjacent to the outdoor garden.
- (E) A statement that the applicant understands and agrees that before a Class G license may be issued, site plans, construction or remodeling plans, operational plans or other information and documentation may be requested for review and approval by the McLean County Health Department and McLean County Building and Zoning Department.
- (F) A statement that the applicant understands and agrees that before a Class G license may be issued, the applicant must apply for and obtain a Special Use Permit from the McLean County Board after hearings are conducted by the McLean County Zoning Board of Appeals, and a Building Permit from the Building and Zoning Department in accordance with the requirements of Chapter 40 of the McLean County Revised Code entitled "Zoning Ordinance", as amended.
- (G) A statement that the applicant understands and agrees that the McLean County Liquor Control Commission may require the erection of fences, walls or similar barricades; restrict or prohibit the use of sound amplifying devices; and create

conditions to minimize the impact on parking, vehicular traffic and pedestrian traffic prior to issuance of a Class G license.

- (H) An approval letter provided by the McLean County Health Department indicating that applicant's proposed outdoor garden meets the requirements of Chapter 26 of the McLean County Revised Code entitled "Food Service", as amended.
- (I) Copies of a Special Use Permit and a Building Permit issued by the McLean County Building and Zoning Department after hearings have been conducted by the McLean County Zoning Board of Appeals and final approval has been given by the McLean County Board for the proposed outdoor garden. **(Sec. 31.23 Added 8-16-05)**

31.24 APPLICATION CONTENTS - INSURANCE - CLASS E. Applications for a Class E license under the terms of this Ordinance shall be signed by the duly authorized agent(s) of the applicant. The application shall be submitted to the McLean County Clerk no later than 14 days prior to the date of the scheduled event. The application shall contain the following: **(Amended 11-17-92)**

- (A) Name, address and telephone number of non-profit organization making application.
- (B) Names, addresses and titles of all officers and directors of said organization.
- (C) Type of event, date and hours of event, and common description of the location for which license is requested. **(Amended 11-17-92)**
- (D) The information required in Paragraphs (A), (C), (D) and (E) of Section 31.22 of this Ordinance.

If the application is approved and the license issued, the McLean County Clerk shall promptly notify the McLean County Sheriff in writing of the issuance of the Class E license. Such notice shall include a copy of said license. **(Amended 11-17-92)**

31.25 BOND REQUIRED. Each applicant for Class A, B, C, or D license hereunder shall execute a penal bond to the County of McLean and the State of Illinois in the sum of \$2,000 with two sureties thereon who are residents of McLean County, Illinois, and who are acceptable to the Commission, or with a surety company licensed to do business in the State of Illinois. Such bond shall be for the full term of the license for which application is made. The Commission shall consider the bond and shall have the right to disapprove the bond.

31.26 FILING OF BOND. Said bond shall be filed with the County Clerk of McLean County at the same time application is presented and shall be referred by the County Clerk to the Commission with the application.

31.27 BOND CONDITIONS. Said bond shall be conditioned upon the faithful observance by the licensee of the Ordinance and provisions of all liquor laws of the State of Illinois and all laws of the United States of America applying to the sale, transportation and possession of alcoholic beverages. Said bond shall be further conditioned upon the payment by the persons entitled to damages as a result of any sale, occurrence, transaction or injury which arises from the operation of the business for which the license hereto applies.

31.28 NEW BOND YEARLY. A new bond shall be presented yearly at the time of application for a renewal of any license under the terms of this Ordinance.

31.29 CLERK NOTIFICATION. The County Clerk, upon receipt of an application for a class A, B, C, ~~or D~~ or G license, shall send notice of the filing of such application to the McLean County Health Department. Upon receipt of said notice, the McLean County Health Department shall inspect the premises sought to be licensed and report its findings to the Liquor Control Commission. A copy of the report shall be filed with the McLean County Clerk. **(Added 10-17-89)**

31.30 RESERVED.

ARTICLE 4 OPERATION OF LICENSE ESTABLISHMENTS

31.31 CONSUMPTION. It shall be unlawful for any licensee to permit any person to consume alcoholic beverage on Class C licensed premises at any time or on Class A, B, D, ~~or E~~ or G licensed premises except during the hours when the license permits the sale of alcoholic beverages on such premises or outdoor gardens. **(Amended 8-16-05)**

31.32 HOURS. It shall be unlawful on any licensed premises to sell or offer for sale at retail or allow the consumption of any alcoholic beverages except during the following hours:

31.31-2 Class A, B, or C Licenses:

Monday through Saturday inclusive - from six o'clock (6:00) A.M. to one o'clock (1:00) A.M. the following day.

Sunday - from twelve Noon to six o'clock (6:00) P.M.

31.32-2 Class D or E Licenses:

Monday through Saturday inclusive - from six o'clock (6:00) A.M. to one o'clock (1:00) A.M. the following day.

Sunday - from twelve Noon to ten thirty o'clock (10:30) P.M.

31.32-2.1 Class G Licenses:

An outdoor garden's hours shall be the same as the hours for the Class A, B or D license that is associated with the Class G license holder. **(Section 31.32-2.1 Added 8-16-05)**

31.32-3 In addition, on December 31, hours for all classes of license shall be from six o'clock (6:00) A.M. to two o'clock (2:00) A.M. New Years Day except when December 31 falls on Sunday, such hours shall be from twelve Noon to two o'clock (2:00) A.M. New Years Day.

31.33 DISPLAY OF LICENSE. Every licensee shall cause his license or licenses to be framed and displayed in plain view in a conspicuous place on the licensed premises.

31.34 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic beverages shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the laws of the State of Illinois and the applicable ordinances of this county regulating the condition of premises used for the storage or sale of food for human consumption, as provided in the McLean County Food Services Establishment Ordinance adopted June 17, 1980, as amended and the McLean County Retail Food Store Ordinance adopted April 15, 1980, as amended.

31.35 EMPLOYEES. All employees shall meet any applicable requirements of the Food Ordinance referred to in Section 31.34 herein.

31.36 RESTRICTION ON SALES. No licensee shall sell, give or deliver alcoholic beverages to any person under the age provided by the law of the State of Illinois for purchasing or possessing alcoholic beverages, or to any intoxicated or disorderly person, or to any person known to him to be a habitual drunkard.

31.37 It shall be unlawful for any person to carry any alcoholic beverages in any unsealed or opened container from the premises or outdoor garden where such alcoholic beverage was purchased. **(Added 6-17-86)**

31.38 It shall be unlawful for any licensee or person acting as agent, servant, or employee of such licensee to knowingly permit any patron to carry any alcoholic beverages in an unsealed or opened container from the premises or outdoor garden of said licensee. **(Added 6-17-86) (Amended 8-16-05)**

31.39 Each licensee and each of his agents, servants, and employees shall promptly report to the McLean County Sheriff's Department any outbreak of any fights, riots, or disturbances of the peace occurring on or about the premises or outdoor garden which in the licensee's knowledge or opinion constitutes the commission of a crime as prohibited by the laws of the State of Illinois, and/or the United States and/or this Ordinance and shall truthfully and fully answer all questions and fully cooperate in any

investigation by any member of the McLean County Sheriff's Department who makes inquiry of any persons on or about the premises or outdoor garden. **(Added 6-17-86) (Amended 8-16-05)**

31.40 It shall be unlawful for any licensee or person acting as agent, servant or employee of such licensee to knowingly deliver any sealed or unsealed, or any unopened or opened containers of any alcoholic beverage at or through any non-outdoor garden walk-up windows or doors, or openings located on or attached to the premises. **(Added 7-17-90) (Amended 8-16-05)** It shall also be unlawful for any licensee or person acting as agent, servant or employee of such licensee to knowingly deliver any sealed or unsealed, or any unopened or opened containers of any alcoholic beverage at or through any drive-up windows or doors, or openings located on or attached to the premises or outdoor garden. **(Added 8-16-05)**

ARTICLE 5 VIOLATIONS, ENFORCEMENT AND PENALTIES

31.41 It shall be unlawful for any licensee or person acting as agent, servant, or employee of such licensee to provide, suffer, or permit any act, conduct, or entertainment on the premises in such a manner as to expose to public view:

- (A) Male or female genitals, pubic hair, buttocks, perineum, anal region, or pubic hair region;
- (B) Any portion of the female breast at or below the areola thereof;
- (C) any device, film, costume, or covering which gives the appearance of or simulates the above listed body parts.
- (D) The use of tassels, pasties, stars, or transparent material for coverage of the above listed body parts.
- (E) Sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, anilingus, fellatio, flagellation, sadomasochism or any other sexual acts prohibited by law;
- (F) The touching, caressing, or fondling of the breast, buttocks, anus, genitals, perineum or pubic hair region;
- (G) Excretory functions as part of or in connection with any activities set forth above. **(Added 12-21-93)**

31.42 **OWNER OF PREMISES PERMITTING VIOLATION.** If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or persons, shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Ordinance, said owner, agent or other person shall be deemed guilty of any violation of this Ordinance to the same extent as said licensee and be subject to the same punishment. **(Renumbered 12-21-93, formerly numbered 31.41)**

31.43 **ACTS OF AGENT OF EMPLOYEE.** Every act or omission constituting a violation of any of the provisions of this Ordinance made with the authorization, knowledge, or approval of the licensee, expressed or implied, shall be deemed the act of the licensee, and said licensee shall be punishable in the same manner as if said act or omission has been done or omitted by him personally. **(Renumbered 12-21-93, formerly numbered 31.42)**

31.44 **PENALTIES.** Any person, partnership or corporation violating any provisions of this Ordinance shall be fined not less than \$50 nor more than \$500 for each offense and for the second or subsequent offense fined not less than \$100 nor more than \$1,000, and a separate offense shall be deemed committed each day during or on which the violation occurs or continues. **(Amended 6-17-86, Renumbered 12-21-93, formerly numbered 31.43)**

31.45 **ENTRY UPON PREMISES.** The Commissioner and/or Commission shall have authority to enter or to authorize any law enforcing officer to enter at any time upon any premises or outdoor gardens licensed hereunder to determine whether any of the provisions of this Ordinance or any rules or regulations adopted by it, or State Liquor Regulations have been or are violated, and at such time to examine said premises or outdoor gardens of said licensee in connection therewith. **(Renumbered 12-21-93, formerly numbered 31.44)**

31.46 **COMPLAINTS.** Any person shall have the right to file a complaint with the Commission stating that any retail licensee, subject to the jurisdiction of the Commission, has been or is violating the provisions of this Ordinance or any rules or regulations pursuant hereto. Any law enforcement officer or other person who desires to file a complaint with the McLean County Liquor

Control Commission charging a violation of the McLean County Liquor Control Ordinance shall present his allegations to the McLean County State's Attorney for review of their factual and legal sufficiency. If the State's Attorney determines that the evidence is sufficient to justify the filing of a formal complaint, he shall prepare and submit said complaint to the Liquor Control Commissioner and shall cause a copy of said complaint to be mailed by first class mail to the accused licensee at the official address listed on the liquor license application. Said complaint shall be in writing and shall be signed and sworn to by the complaining party or the State's Attorney. It shall state the particulars of the alleged violation(s), including the date and place of the violation, the nature of the violation, and the particular sections of the Ordinance or statute violated.

(Amended 9-15-81, Renumbered 12-21-93, formerly numbered 31.45)

31.47 - 31.50 RESERVED.

ARTICLE 6
SUSPENSION OR REVOCATION OF LICENSE
FORFEIT OF FEE AND BOND

31.51 **SUSPENSION OR REVOCATION BY COMMISSION.** The Commission may suspend for not more than thirty days or may revoke any license issued by it and require the forfeiture of the license fee and the licensee's bond:

- (A) If the Commission determines that the licensee has violated any of the provisions of the Illinois Liquor Control Act or any of the provisions of this Ordinance.
- (B) Whenever any licensee shall be convicted of any violation of this Ordinance.
- (C) Whenever any officer, director, manager or other employee in a position of authority of a licensee under this Ordinance shall be convicted of any violation of this Ordinance while engaged in the course of his employment or while upon the premises described by said license.
- (D) Upon payment by the licensee of any federal tax imposed on gambling or gambling equipment under the United States Code.
- (E) Upon the licensee maintaining or operating a dram shop on any premises registered as a place of business when activities are carried on which make the person or persons so carrying on subject to any tax on wagering.
- (F) Upon the licensee permitting gambling of any kind to be conducted on the premises where the licensee carries on his business.

31.52 **HEARINGS BY THE COMMISSION.** All hearings and actions by the Commission with regard to the suspension or revocation of any license shall be conducted according to the applicable provisions of the Illinois Liquor Control Act and according to the procedures set forth herein.

31.52-1 **Pre Hearing Procedures**

- (A) After receiving a complaint from the State's Attorney, the Liquor Control Commissioner shall set the matter for hearing no less than 10 days and no more than 90 days from the date of receipt of such complaint. The Commissioner shall cause notice to be served on the accused party by delivery at the official address listed on the liquor license application by any first class mail at the same location, which notice shall include: a) statement of the time, date and place of the hearing and a reference to the complaint upon which the hearing is based; b) a copy of the procedures for the conduct of hearings.
- (B) At the request of the accused party, the State's Attorney shall, prior to the hearing, furnish the accused or his attorney a copy of all police reports or other written reports concerning the violation(s) alleged in the complaint.
- (C) Continuances. At his discretion and for good cause shown, the Liquor Control Commissioner may grant a continuance of a scheduled hearing to any party. Except in bonafide emergencies, motions for continuances shall be submitted to the Commissioner in writing as soon as possible after the reason for the request for continuance is known. A copy of the

motion shall be served on the opposing party. In situations where time is too short to present a written motion for continuance, the party shall contact the Commissioner directly by any reasonable means and shall notify the opposing party likewise. The Commissioner may grant or hearing, and a decision by default may be entered against any party not appearing.

31.52-2 Hearing Procedures

- (A) Any party to a hearing who desires such may be represented by legal counsel. The accused party shall be afforded the opportunity to respond and present evidence and argument, to call witnesses, and to compel the attendance of witnesses by subpoena.
- (B) If the complaint alleging violations of the Liquor Control Ordinance was reviewed by the State's Attorney, the complaining party shall be represented by the State's Attorney who shall call witnesses and present the evidence against the accused party.
- (C) All witnesses who testify shall do so under oath.
- (D) The commissioner shall cause a record of the hearing to be preserved, which shall include the following: all pleadings, notices, motions, rulings, etc.; all documentary or physical evidence received; offers of proof, objections and rulings thereon; and any decision, opinion or report by the Commissioner; and an electronic recording of the hearing proceedings.

(E) Rules of Evidence

(1) Irrelevant, immaterial and unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the Circuit Courts of the State of Illinois shall be as followed. However, evidence not admissible under such rules of evidence may be admitted except where prohibited by statute, if it is of a type commonly relied upon by reasonable prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when the cause of a hearing will be expedited and the interest of the parties will not be prejudice, any part of the evidence may be received in written form or by stipulation.

(2) Parties shall have the right to conduct cross examination of witnesses to the extent necessary for a full and fair disclosure of the facts. Notice may be taken of matters which the Circuit Courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the agencies within the Commission's specialized knowledge. Such notice shall be recorded in the record. The Commission's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

- (F) **DECISION.** Violations of the Liquor Control Ordinance shall be proven by a preponderance of the evidence. The decision or decisions made by the Commission shall be final and may not be appealed to the McLean County Board or any other Board committee. Said final decision or order in a case shall be in writing or stated in the record. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Parties to the case shall be notified in writing, personally or by registered or certified mail, of any decision or order. **(Amended 2-17-87)**
- (G) Unless precluded by law, disposition may be made of any case by stipulation, agreed settlement, consent order, or default, at any stage in the proceedings. If the Commission does not concur with any proposed disposition by stipulation or settlement, the hearing shall proceed to completion.

31.52-3 Miscellaneous

- (A) Hearings under the Liquor Control Ordinance are subject to the provisions of the Illinois Open Meetings Act. **(Amended 6-17-86)**
- (B) Compliance with any or all of the provisions for hearings may be waived by written stipulation of all the parties, subject to the approval of the Commission.
- (C) The Commissioner may, with the consent of the State's Attorney, employ or otherwise acquire the services of legal counsel to advise the Commission during hearings in which the State's Attorney is representing the complaining party.

(Entire section amended 9-15-81)

31.53 **USE OF PREMISES FOR ONE YEAR AFTER REVOCATION.** When any license shall have been revoked for cause, no license shall be granted to any person for the period of one year thereafter for the retail sale of alcoholic beverages on the premises for which the revoked license was issued.

31.54 - 31.60 **RESERVED.**

**ARTICLE 7
SEPARABILITY - REPEALER - EFFECTIVE DATE**

31.61 **SEPARABILITY.** The clauses, sentences, paragraphs, sections, articles or parts of this Ordinance are separable. If any clause, sentence, paragraph, section, article or part of this Ordinance shall for any reason be adjudged invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

31.62 **REPEAL.** The Liquor Control Ordinance adopted by the McLean County Board on January 13, 1976, and subsequently amended is hereby repealed.

31.63 **EFFECTIVE DATE.** This Ordinance shall take effect and be in full force from and after its passage as provided by law.

Adopted by the County Board of McLean County, Illinois, this 16th day of August, 2005.

**AMENDED 9-15-81, 6-17-86, 2-17-87, 6-16-87, 10-17-89, 7-17-90, 5-12-92
11-17-92, 12-21-93, 8-16-05**